THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.29996 OF 1995

DATED: 17-01-2007

Between :

Nimmala Ankaiah ... Petitioner

And

1. Special Deputy Collector, Telugu Ganga Project, Podalkur at Nellore, Kothur Post, Nellore-4 and Another. .. Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.29996 OF 1995

ORDER :

This writ petition is filed seeking a declaration that the order dated 12-3-1994 passed by the Special Deputy Collector, Telugu Ganga Project, Nellore as arbitrary and illegal.

The petitioner was granted a D-Form patta to an extent of Ac.5.00 cents situated in Sy.Nos.194/1B & 194/2 of Dachur Village, Kaluwai Mandal, Nellore District. It is claimed that having made the said land fit for cultivation, the petitioner raised several fruit bearing trees. While so, the said land was resumed to the Government on 17-1-1992 for a public purpose for foreshore submersion under Telugu Ganga Project. Since admittedly the land is an assigned land, the petitioner was denied compensation towards the land value but was only offered Rs.1,72,097/- by the 1st respondent vide order dated 12-3-1994 to the extent of deprivation of the development made by the petitioner. Aggrieved by the same, this writ petition is filed.

In the counter-affidavit filed on behalf of the 1st respondent, it is contended that since admittedly it is assigned land, it is not necessary for the respondents to pass award under the Land Acquisition Act fixing the land value.

I have heard the learned Counsel for both the parties and perused the material on record.

The question whether the assignees are entitled for compensation for the assigned lands when the same are resumed for public purpose has been considered by a Larger Bench of this Court in

LAO-CUM-RDO, CHEVELLA DIVISION, DOMALGUDA, HYD. *vs.* M. PANDU[1]. It was held by the Larger Bench that such assignees hold the assigned lands as full owners and therefore they are entitled to compensation based on the market value along with other benefits on par with full owners.

In the light of the above decision by the Larger Bench, the learned Counsel for the petitioner contended that the respondents are bound to fix the compensation following the procedure prescribed under the Land Acquisition Act, 1894. However, the learned Government Pleader for Land Acquisition appearing for the respondent submitted that against the judgment of the Larger Bench, the State Government preferred an appeal and the same is pending before the Supreme Court in which further payments in terms of the decision of the Larger Bench has been stayed.

Having regard to the fact that the appeal is pending before the Supreme Court, though there cannot be a direction to pay the compensation on par with full owners, I deem it appropriate to dispose of the writ petition with a direction that the petitioner shall be paid compensation as fixed under the impugned order, if not already paid, within a period of four weeks from the date of receipt of this order.

It is made clear that this shall not preclude the petitioner to press his claim for additional compensation in terms of the decision of the Larger Bench in M. PANDU'S case (1 supra) in the event of the same being upheld by the Supreme Court.

Writ Petition is accordingly disposed of. No costs.

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G. ROHINI, J.

Dt. 17-1-2007
gbs

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[1] 2004 (2) ALD 451 (LB)